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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

Arizona Corporation Commission

DOCKETED

JUN 20 2008

DOCKETED BY

nr

In the matter of:

DONALD ANTHONY TOMASIAN a/k/a  
DONALD ANTHONY TOMASIAN, JR.  
and KATHERINA TOMASIAN, husband  
and wife,

BELLA FUNDING, L.L.C., an Arizona  
limited liability company,

Respondents.

DOCKET NO. S-20566A-07-0655

DECISION NO. 70389

**ORDER TO CEASE AND DESIST, ORDER  
FOR ADMINISTRATIVE PENALTIES AND  
CONSENT TO SAME**

**BY: DONALD ANTHONY TOMASIAN a/k/a  
DONALD ANTHONY TOMASIAN, JR. AND  
BELLA FUNDING, L.L.C.**

Respondents DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN, JR., and BELLA FUNDING, L.L.C. elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease And Desist, Order for Administrative Penalties and Consent to Same ("Order"). DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN, JR. and BELLA FUNDING, L.L.C. admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

**I. FINDINGS OF FACT**

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2       1.     DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN,  
3 JR. ("TOMASIAN") is an individual who, at all times relevant hereto, resided in Maricopa County,  
4 Arizona.

5       2.     BELLA FUNDING, L.L.C. ("BELLA FUNDING") is an Arizona limited liability  
6 company formed on May 25, 2006 with at least one business location in Scottsdale, Arizona.  
7 TOMASIAN is the founder, statutory agent, manager and member of BELLA FUNDING.

8       3.     TOMASIAN and BELLA FUNDING may be referred to collectively as  
9 "RESPONDENTS."

10       4.     At all times relevant hereto, TOMASIAN was employed as a loan officer with First  
11 Choice Mortgage, Inc. ("First Choice, Inc.") First Choice, Inc. was incorporated in Arizona on June  
12 6, 1997 and is a licensed mortgage broker registered with the Arizona Department of Financial  
13 Institutions ("AzDFI"), license #0019193.

14       5.     First Choice, Inc. has five branch offices in Arizona that have been assigned branch  
15 office license numbers by AzDFI. TOMASIAN operated, from his home, the First Choice, Inc.  
16 branch office assigned branch license #0111223.

17       6.     TOMASIAN included the notation "MB# 0111223" in advertisements for BELLA  
18 FUNDING offering prospective investors an investment opportunity ("Trust Deed Investment").  
19 TOMASIAN's inclusion of the notation "MB#0111223" left prospective investors with the  
20 impression that RESPONDENTS were licensed mortgage brokers. RESPONDENTS have never  
21 been licensed in any state as a mortgage broker, mortgage banker or consumer lender.

22       7.     Prospective investors were offered the Trust Deed Investment opportunity by  
23 RESPONDENTS through a website and advertisements in various real estate publications.

24       8.     On his website and in his advertisements, TOMASIAN described the Trust Deed  
25 Investment as an investment opportunity in commercial and residential property. TOMASIAN  
26 represented that he would fund loans to borrowers using funds raised from private investors. The

1 private investors were promised monthly income from the interest accrued on the underlying  
2 promissory notes executed between the borrower and investor with the promissory notes being  
3 secured by a position on the deed of trust to the property.

4 9. As early as August 2006, TOMASIAN placed an ad in the *Arizona Republic* offering  
5 prospective investors an investment opportunity involving the funding of "First Position Deeds of  
6 Trust." The ad described the investment as involving properties with low loan to value ratios and a  
7 high yield return on cash.

8 10. Until November 20, 2007, TOMASIAN maintained a website at  
9 [www.bellafunding.com](http://www.bellafunding.com).

10 11. At least one potential Arizona investor ("PAI"), after visiting the website, called  
11 the contact phone number listed on the website and spoke with TOMASIAN who identified  
12 himself as the owner of the company.

13 12. TOMASIAN informed the PAI that the deeds recorded would be recorded with the  
14 investor's name in the first lien position and that in every instance all the money flowed through a  
15 title company.

16 13. TOMASIAN represented that he could invest some portion of the PAI's money to  
17 earn a return of 12 or 13 percent to the PAI and that he could invest another portion of the PAI's  
18 money to earn an even higher rate of return for the benefit of the PAI.

19 14. TOMASIAN e-mailed two documents to the PAI. The first was titled as an  
20 "Investor Profile." The second document was titled as a "Questionnaire." TOMASIAN's e-mail  
21 requested the PAI to complete the documents and return them so that, upon receipt, TOMASIAN  
22 could immediately start sending real estate transactions to the PAI for consideration. TOMASIAN  
23 did not routinely require prospective investors to complete an "Investor Profile" or "Questionnaire"  
24 prior to investing.

1           15.     TOMASIAN did not inquire of the PAI whether or not he/she could sustain the loss  
2 of the investment nor did TOMASIAN request the amount of the PAI's net worth and the "Investor  
3 Profile" and "Questionnaire" did not seek this information.

4           16.     TOMASIAN failed to disclose to the PAI that on August 6, 2001, he had filed for  
5 protection under Chapter 7 of the United States Bankruptcy Code in the U.S. Bankruptcy Court,  
6 District of Arizona in the matter entitled *In re Donald Anthony Tomasian, Jr.*, case no. **2:01-bk-**  
7 **10219-RTB**. On November 19, 2001, TOMASIAN received a bankruptcy discharge.

8           17.     TOMASIAN also failed to inform the PAI that a federal tax lien had been entered  
9 against TOMASIAN in 2003 and that he had been the defendant in several civil cases that resulted  
10 in judgments being entered against him.

11           18.     On the website, investors were offered the Trust Deed Investment with  
12 representations of "9-13%" yields, moderate risk and no expense. Information contained within  
13 the website also represented that BELLA FUNDING was a fully integrated real estate investment  
14 and mortgage lending company that would service the loans "in-house" in exchange for a fee.  
15 According to the website, the services to be provided by BELLA FUNDING included billing the  
16 borrower and collecting payment for the interest earned throughout the month, depositing the funds  
17 received into the account of the investor, maintaining impounded taxes, insurance and home  
18 owner's association dues through BELLA FUNDING's servicing department and ensuring  
19 continuous hazard insurance coverage and timely payments.

20           19.     Investor funds were held and disbursed by third party fiduciaries (title companies)  
21 and were not deposited into RESPONDENTS' bank accounts or otherwise controlled by  
22 RESPONDENTS.

23           20.     Information contained on the website further represented that BELLA FUNDING  
24 offered a full array of mortgage products. RESPONDENTS have never been licensed in any state  
25 as mortgage brokers, mortgage bankers or consumer lenders.

21. The website also represented to prospective investors that they could start earning 12% fixed annual yields by investing cash, savings, CD's, stocks, bonds, IRA's and other investment accounts in real estate.

22. The website also provided a “. . . list of closed loans facilitated by Bella Funding.” The ROR (rate of return) listed for the closed loans are either 14% or 18%. The LTV (loan-to-value ratio) listed for the closed loans range from 47% to 75%.

23. Upon receipt of the Temporary Order to Cease and Desist and Notice of Opportunity for Hearing filed by the Arizona Securities Division, TOMASIAN immediately took down his website.

24. TOMASIAN also represented in at least one advertisement to attract prospective investors that BELLA FUNDING specialized in deeds of trust with high yield and minimal risk.

## **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

2. RESPONDENTS offered or sold securities within or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

3. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

4. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while neither registered as dealers or salesmen nor exempt from registration.

5. RESPONDENTS violated A.R.S. § 44-1991.

6. RESPONDENTS' conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

7. RESPONDENTS' conduct is grounds for administrative penalties under A.R.S. § 44-2036.

### III. ORDER

THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and RESPONDENTS' consent to the entry of this Order, attached and incorporated by reference, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, and any of RESPONDENTS' agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED that RESPONDENTS comply with the attached Consent to Entry of Order.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS, jointly and severally shall pay an administrative penalty in the amount of \$10,000. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue interest at the rate of 10% per annum from the date of this Order until paid in full. Payment shall be made in full on the date of this Order.

For purposes of this Order, a bankruptcy filing by any of the RESPONDENTS shall be an act of default. If any RESPONDENTS do not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable.

IT IS FURTHER ORDERED, that if any RESPONDENT fails to comply with this order, the Commission may bring further legal proceedings against that RESPONDENT, including application to the superior court for an order of contempt.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

IT IS FURTHER ORDERED that Respondent KATHERINA TOMASIAN is dismissed from this action with prejudice.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

Lawell J. Gleason  
CHAIRMAN

William T. Miley  
COMMISSIONER

Jeffrey L. Miller  
COMMISSIONER

R. T. Miley  
COMMISSIONER

Gary R. Miller  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL,  
Executive Director of the Arizona Corporation  
Commission, have hereunto set my hand and caused the  
official seal of the Commission to be affixed at the  
Capitol, in the City of Phoenix, this 20<sup>th</sup> day of  
June, 2008.

Brian C. McNeil  
BRIAN C. McNEIL  
Executive Director

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, ADA Coordinator,  
voice phone number 602-542-3931, e-mail [lhogan@azcc.gov](mailto:lhogan@azcc.gov).

(wwb)

**CONSENT TO ENTRY OF ORDER**

1  
2           1.       Respondents DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY  
3 TOMASIAN, JR. and BELLA FUNDING, L.L.C. (hereinafter "RESPONDENTS") admit the  
4 jurisdiction of the Commission over the subject matter of this proceeding. RESPONDENTS  
5 acknowledge that they have been fully advised of their right to a hearing to present evidence and  
6 call witnesses and knowingly and voluntarily waive any and all rights to a hearing before the  
7 Commission and all other rights otherwise available under Article 11 of the Securities Act and  
8 Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To  
9 Cease and Desist, Order for Administrative Penalties and Consent to Same ("Order") constitutes a  
10 valid final order of the Commission.

11           2.       RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the  
12 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief  
13 resulting from the entry of this Order.

14           3.       RESPONDENTS acknowledge and agree that this Order is entered into freely and  
15 voluntarily and that no promise was made or coercion used to induce such entry.

16           4.       RESPONDENTS acknowledge that they have been represented by an attorney in  
17 this matter, RESPONDENTS have reviewed this Order with RESPONDENTS' attorney, Alan S.  
18 Baskin, and understand all terms it contains.

19           5.       RESPONDENTS neither admit nor deny the Findings of Fact and Conclusions of  
20 Law contained in this Order. RESPONDENTS agree that they shall not contest the validity of the  
21 Findings of Fact and Conclusions of Law contained in this Order in any present or future  
22 administrative proceeding before the Commission.

23           6.       By consenting to the entry of this Order, RESPONDENTS agree not to take any  
24 action or to make, or permit to be made, any public statement denying, directly or indirectly, any  
25 Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is  
26



1 without factual basis. RESPONDENTS will undertake steps necessary to assure that all of  
2 RESPONDENTS' agents and employees understand and comply with this agreement.

3 7. While this Order settles this administrative matter between RESPONDENTS and  
4 the Commission, RESPONDENTS understand that this Order does not preclude the Commission  
5 from instituting other administrative or civil proceedings based on violations that are not addressed  
6 by this Order.

7 8. RESPONDENTS understand that this Order does not preclude the Commission  
8 from referring this matter to any governmental agency for administrative, civil, or criminal  
9 proceedings that may be related to the matters addressed by this Order.

10 9. RESPONDENTS understand that this Order does not preclude any other agency or  
11 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal  
12 proceedings that may be related to matters addressed by this Order.

13 10. RESPONDENTS agree that they will not apply to the state of Arizona for  
14 registration as a securities dealer or salesman or for licensure as an investment adviser or  
15 investment adviser representative until such time as all restitution and penalties under this Order  
16 are paid in full.

17 11. RESPONDENTS agree that they will not exercise any control over any entity that  
18 offers or sells securities or provides investment advisory services within or from Arizona until  
19 such time as all restitution and penalties under this Order are paid in full.

20 12. RESPONDENTS agree that they will not sell any securities in or from Arizona  
21 without being properly registered in Arizona as a dealer or salesman, or exempt from such  
22 registration; RESPONDENTS will not sell any securities in or from Arizona unless the securities  
23 are registered in Arizona or exempt from registration; and RESPONDENTS will not transact  
24 business in Arizona as an investment adviser or an investment adviser representative unless  
25 properly licensed in Arizona or exempt from licensure.  
26

1           13.     RESPONDENTS agree that they will continue to cooperate with the Securities  
2 Division including, but not limited to, providing complete and accurate testimony at any hearing in  
3 this matter and cooperating with the state of Arizona in any related investigation or any other  
4 matters arising from the activities described in this Order.

5           15.     RESPONDENTS consent to the entry of this Order and agrees to be fully bound by  
6 its terms and conditions.

7           16.     RESPONDENTS acknowledge and understand that if they fail to comply with the  
8 provisions of the Order and this consent, the Commission may bring further legal proceedings  
9 against RESPONDENTS, including application to the superior court for an order of contempt.

10          17.     RESPONDENTS understand that default shall render them liable to the  
11 Commission for its costs of collection and interest at the maximum legal rate.

12          18.     RESPONDENTS agree and understand that if they fail to make any payment as  
13 required in the Order, any outstanding balance shall be in default and shall be immediately due and  
14 payable without notice or demand. RESPONDENTS agree and understand that acceptance of any  
15 partial or late payment by the Commission is not a waiver of default by the Commission.

16          19.     DONALD ANTHONY TOMASIAN a/k/a DONALD ANTHONY TOMASIAN,  
17 JR. represents that he is the founder, statutory agent, manager and member of BELLA FUNDING,  
18 L.L.C. and has been authorized to enter into this Order for and on behalf of it.

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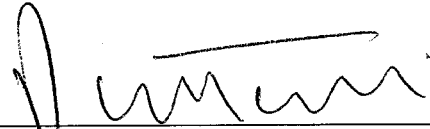
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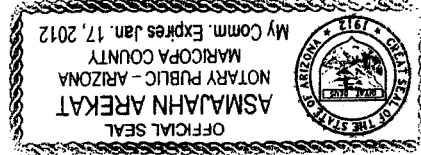
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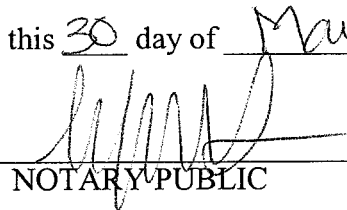


Donald Anthony Tomasian a/k/a Donald Anthony  
Tomasian, Jr., a married man

STATE OF ARIZONA )  
County of Maricopa ) ss



SUBSCRIBED AND SWORN TO BEFORE me this 30 day of May, 2008.

  
NOTARY PUBLIC

My commission expires:

Jan 17, 2012

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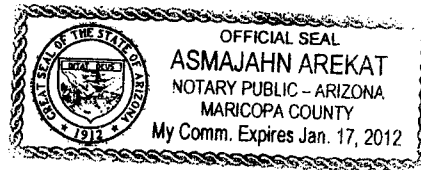
BELLA FUNDING, L.L.C, An Arizona  
Limited Liability Company

By: \_\_\_\_\_

Donald Anthony Tomasian a/k/a Donald  
Anthony Tomasian, Jr.

Its: Founder, owner, statutory agent, manager  
and member

STATE OF ARIZONA       )  
  ) ss  
County of Maricopa       )



SUBSCRIBED AND SWORN TO BEFORE me this 30 day of May, 2008.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

Jan. 17, 2012